



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE:

Office: Miami

Date:

JAN 30 2003

IN RE: Applicant:

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The Associate Commissioner affirmed the decision of the district director to deny the application. The matter is now before the Associate Commissioner on a motion to reopen. The motion will be dismissed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966.

The district director denied the application after determining that the applicant was inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2)(A)(i)(I) for having committed a crime involving moral turpitude.

On August 23, 2004, upon review of the record of proceeding, the Associate Commissioner affirmed the district director's findings that the applicant was inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(I) of the Act, based on his convictions of aggravated battery, battery on a law enforcement officer, and lewd and lascivious act, all found to be crimes involving moral turpitude, and that the applicant was not the recipient of an approved waiver of grounds of inadmissibility.

In a motion to reopen, filed with the Service on September 30, 2002, the applicant asserts that he has completed his debt with justice, and that it has been more than 10 years since his last arrest and conviction. The applicant submits affidavits from friends, including affidavits previously furnished, attesting to his good moral character.

Pursuant to 8 C.F.R. 103.5(a)(1)(i), any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. 103.5(a)(4).

The record reflects that the Associate Commissioner affirmed the district director's decision to deny the application on August 23, 2002. The applicant had 30 days after August 23, 2002 in which to file a motion to reopen or a motion to reconsider. This motion,

however, was received by the Service on September 30, 2002, 37 days after the Associate Commissioner's decision. The applicant neither addressed nor submitted evidence to demonstrate that the delay was reasonable and was beyond his control. The motion, therefore, will be dismissed.

ORDER: The motion is dismissed.